

AFFIDAVIT OF JANET CHESLEY

STATE OF OKLAHOMA)
) **ss.**
COUNTY OF CLEVELAND COUNTY)

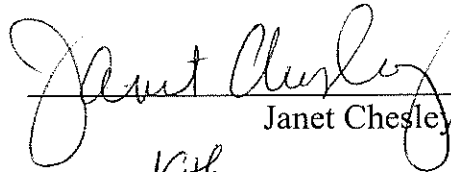
Before me, the undersigned Notary, on this 19th day of July, 2006, personally appeared Janet Chesley, known to me to be a credible person and of lawful age, who being by me first duly sworn, on her oath, deposes and says:

1. I am an attorney in the capital direct appeals division at the Oklahoma Indigent Defense System, located in Norman, Oklahoma.
2. On July 17, 2006, I toured the facilities at H-Unit (death row) at the Oklahoma State Penitentiary (“OSP”) in McAlester, Oklahoma.
3. In attendance at the tour were: Kim Marks (investigator), Traci Quick (attorney), Craig Haney (expert), and Deputy Warden Kameron Harvanek.
4. As described in the attached Exhibit 1, the tour included the following locations: F Cellhouse (presently general population units but formerly death row); E-Unit (presently special needs unit for chronic mentally ill inmates, former disciplinary unit for death row); H-Unit (SW quad), double lock high max cell, cell 3A, exercise yard, attorney visiting areas, family/friend visiting areas, and the execution chamber.
5. Kim Marks arranged the tour of H-Unit through the deputy warden’s office at OSP. No objection was raised to the tour, the attendance of investigators or experts at the tour, and no objection was raised to the inclusion of the execution chamber as part of the tour.
6. There are three doors into the execution chamber. One door leads in from the viewing area. One door is the door through which the prisoner is brought. The final door accesses the room where the executioners administer the drugs. For clarity, I will refer to this room as the “drug room.” I have attached a picture to this affidavit which reflects my recollection of the execution room set up, labeled Exhibit 2.

Affidavit of Janet Chesley
Page 1 of 3

7. The execution chamber is approximately 12 by 9 feet. At the time I viewed the chamber there was a gurney in the room and a podium. I do not know whether the gurney was positioned as it regularly is during executions, but it was placed adjacent to the drug room.
8. Adjacent to the chamber, and accessed from the chamber via a door is the drug room. The room is approximately 4 by 5 feet. There were shelves and a small desk in the room, restricting movement in the room. I found it hard to believe that three people could fit in the room without jostling one another.
9. There were what appeared to be cleaning supplies stored in the drug room.
10. The door to the drug room contained a panel of one-way mirrored glass approximately 2 feet wide by 2 ½ feet high.
11. The ceiling light in the drug room was a florescent type of light with a green cover over it or green light bulbs in the fixture. I saw the light when it was turned on and, even with the door to the execution room open, the room was dim. I could see what was around me, but I think I would have found it difficult to read small print in the light if the door was shut.
12. The only view of the execution chamber from the drug room was through the one-way mirror in the door. The door was adjacent to, not directly behind the gurney as it was placed when I viewed the room. From that vantage point during an execution you would be looking obliquely at the gurney and would only see the inmate's right side. I do not think you could see the inmate's left arm clearly.
13. There were two holes, approximately 4 inches in diameter, between the drug room and the execution room. The holes were approximately four feet off the ground. The holes were 18 to 24 inches apart.
14. On the 8th of June, 2006, I was waiting at the entrance to H-Unit to visit some of my clients. While I was waiting, I saw the guard at the entrance to H-Unit point to a spot on her desk and ask the trustee to clean the spot because she believed it to be blood from a recent execution. The guard said to me that she thought the blood was left over from the movement of a body after a bad execution.
15. I swear and affirm that the foregoing statement is true and correct.

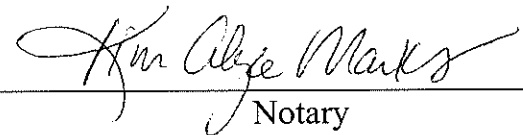
FURTHER AFFIANT SAYETH NOT.



Janet Chesley

Subscribed and sworn to before me the 19th day of July, 2006, by the person known to me to be Janet Chesley.

Seal:



Notary

My commission expires: July 20, 2008
My commission number is: 04006555



JAMES D. BEDNAR
EXECUTIVE DIRECTOR

INVESTIGATOR'S

BRAD HENRY
GOVERNOR

STATE OF OKLAHOMA
OKLAHOMA INDIGENT DEFENSE SYSTEM

June 29, 2006

Deputy Warden's Office
Oklahoma State Penitentiary
ATTN: Brenda Fox
P.O. Box 97
McAlester, OK 74502
Delivered via fax: (918) 423-3862
Original with curriculum vitae of expert to be delivered via U.S. Mail

To Whom It May Concern:

This letter is to make two requests as follows:

- (1) A request for a tour of designated areas of the prison, beginning at 8:30 a.m., Monday, July 17, 2006; and
- (2) A request for a legal visit with inmate **James T. Fisher, #132887**, immediately following the conclusion of the tour.

I have outlined the two requests in more detail below.

1. **The Tour**

Attorneys Janet Chesley and Traci Quick, and Investigator Kim Marks of the Oklahoma Indigent Defense System in Norman, and Psychological Expert Craig William Haney of Santa Cruz, CA, request a tour of the following areas of the prison by one or more designated representatives of your facility: **E Unit, F Cellhouse and H Unit**. They also wish to tour the **Special Needs Unit**, but we are not sure where it is at this point in time.

The purpose of the request for the tour is for continuing legal representation of Mr. Fisher in his appeal from his death penalty case. Mr. Fisher has been incarcerated for approximately 23 years; most of that time has been spent at OSP. He generally has been incarcerated in the F Cellhouse and H Unit, and in disciplinary segregation and/or DU on E Unit and H Unit.

(continued on page 2)

Affidavit of Janet Chesley

Exhibit 1

Specifically, the group requests to tour and observe:

- The 1 and 2 runs in the F Cellhouse where the death row population was housed prior to the construction of H Unit.
- The quads or cellblocks on E Unit previously used for disciplinary segregation and/or DU prior to the construction of H Unit.

Because the group may have some basic questions about the facility's history prior to the construction of H Unit, it would be helpful if the escort was familiar with that history, if at all possible.

On the Special Needs Unit, the group wishes to tour and observe the unit's treatment areas and cells. They also wish to speak to an employee who can explain the basic criteria for determining which prisoners are to be housed there and what services are available. They do not intend to ask specific questions about Mr. Fisher or any other particular prisoner.

On H Unit, the group wishes to tour and observe:

- The SW quad where death row is now housed.
- The current DU and Administrative Segregation quads (NE and NW quads). The attorneys and expert may have questions about the basic criteria for determining which prisoners are housed on DU and administrative segregation, and about the current level system. They do not intend to ask questions about Mr. Fisher or any other particular prisoner.
- Mr. Fisher's current cell. (They do not necessarily need for the prisoner to be inside the cell when they view it.)
- One of the double-lock cells on the death row quad used for disciplinary segregation.
- The execution holding cell and the execution chamber.
- The family visitation area on the second floor.

2. The Legal Visit

We are also requesting a full-contact, barrier-free, restraint-free, confidential legal visit for Attorneys Chesley and Quick, and Investigator Marks and Dr. Craig William Haney with prisoner James T. Fisher, #132887, on Monday, July 17, 2006, immediately following the tour. The attorneys and/or investigator plan to introduce Mr. Fisher to Dr. Haney, then will exit, leaving Dr. Haney to interview and conduct psychological testing on Mr. Fisher for the purpose of continuing legal representation in his appeal from his death penalty case. Dr. Haney anticipates spending the remaining part of the day with Mr. Fisher.

Dr. Haney's curriculum vitae is not attached to this facsimile, but will be delivered via U.S. Mail, along with an original copy of this letter, to the Deputy Warden's Office next week.

If you have any questions or wish more information about either of the requests, please feel free to call Ms. Chesley or me at (405) 801-2666. Thank you for your assistance in this matter.

Sincerely,



Kim A. Marks
Investigator

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JAMES D. BEDNAR
 EXECUTIVE DIRECTOR



BRAD HENRY
 GOVERNOR

STATE OF OKLAHOMA
 OKLAHOMA INDIGENT DEFENSE SYSTEM

June 29, 2006

Deputy Warden's Office
 Oklahoma State Penitentiary
 ATTN: Brenda Fox
 P.O. Box 97
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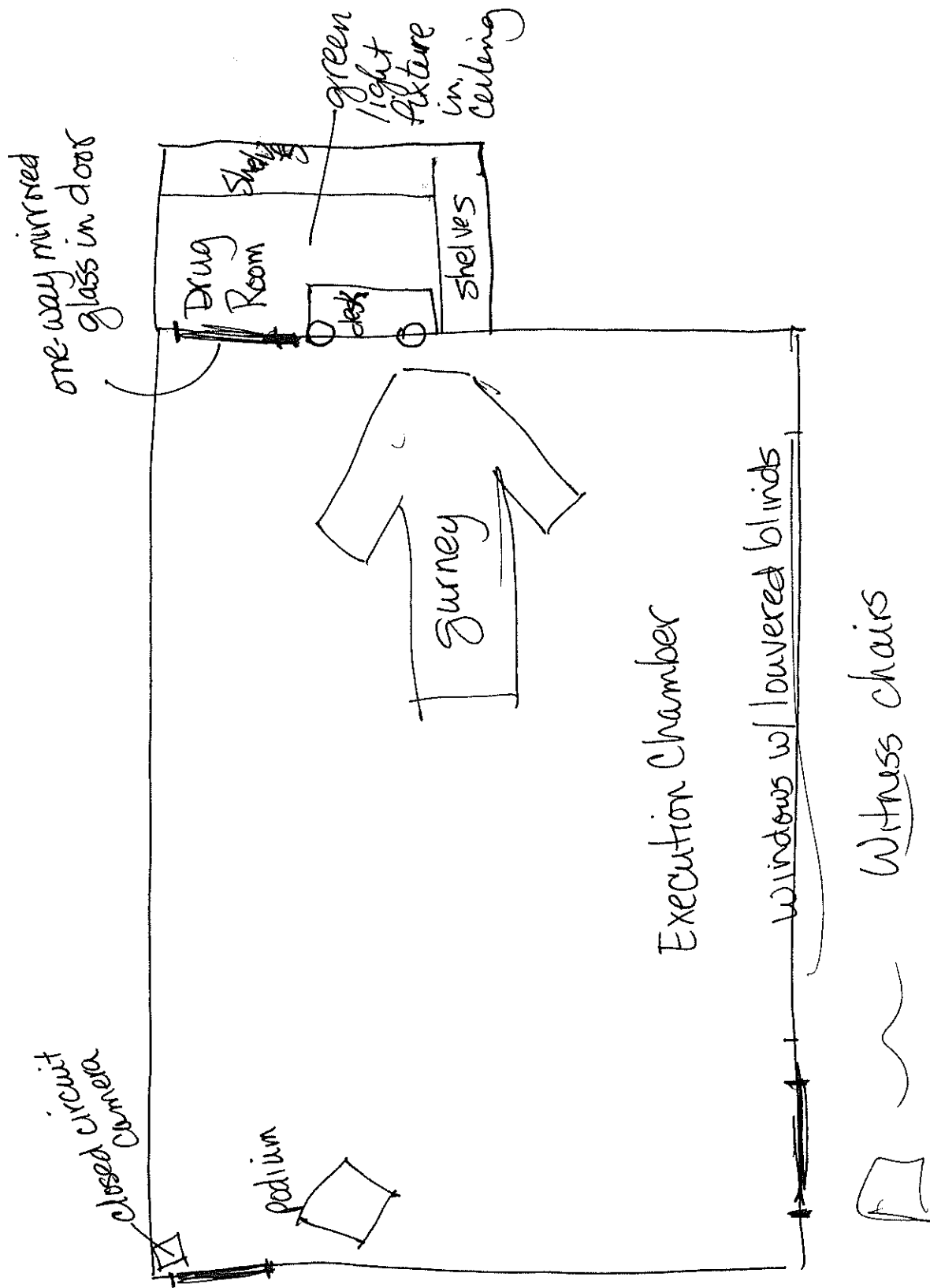


Exhibit 2

Not to scale
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